

UNITES STATES DISTRICT COURT  
FOR THE  
DISTRICT OF NEW JERSEY

CRAIG CUNNINGHAM,

Plaintiff, pro se,

-against-

CAPITAL ADVANCE SOLUTIONS, LLC,  
GEOFFREY HORN, CHARLES BETTA,  
DANIEL LOGAN, EBF PARTNERS,  
LLC, WEBBANK CORPORATION,  
RETAIL CAPITAL, LLC DBA  
CREDIBLY,

Defendants.

**Civil Action No. 17-13050-FLW-DEA**

**ANSWER TO PLAINTIFF'S COMPLAINT**

***Jury Trial Demanded***

Defendants, Capital Advance Solutions, LLC, Geoffrey Horn, Charles Betta and Daniel Logan respond to plaintiff's complaint as follows:

1. Denied. After reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, denies same and demands strict proof thereof at Trial.
2. Defendants admit the averments of paragraph 2.
3. Denied. After reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at Trial.
4. Denied. After reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at Trial.
5. Defendants admit the averments of paragraph 5.

6. The averments of this paragraph pertain to a Defendant other than Answering Defendants and as such, no response is required thereto and Plaintiffs are left to their proofs at the time of trial. To the extent this allegation is deemed directed to Capital Advance Solutions, this allegation is denied.

7. The averments of this paragraph pertain to a Defendant other than Answering Defendants and as such, no response is required thereto and Plaintiffs are left to their proofs at the time of trial. To the extent this allegation is deemed directed to Capital Advance Solutions, this allegation is denied.

8. The averments of this paragraph pertain to a Defendant other than Answering Defendants and as such, no response is required thereto and Plaintiffs are left to their proofs at the time of trial. To the extent this allegation is deemed directed to Capital Advance Solutions, this allegation is denied.

#### JURISDICTION

9. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at Trial.

10. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at Trial.

## **FACTUAL ALLEGATIONS**

### **Call from Capital Advance Solutions**

11. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at Trial.

12. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, Defendants deny each and every allegation contained in Paragraph "12" of the Verified Complaint herein and demand strict proof thereof at trial.

13. Denied. After reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at Trial.

14. Denied. After reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at Trial.

### **Calls by the Defendants**

15. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. After reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at

Trial.

16. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. After reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at Trial.

17. The averments of this paragraph pertain to a Defendant other than Answering Defendants and as such, no response is required thereto and Plaintiffs are left to their proofs at the time of trial. The averments contained in this paragraph also state conclusions of law to which no answer is required. In the event this allegation is deemed directed at Capital Advance Solutions, the allegations are denied.

18. The averments of this paragraph pertain to a Defendant other than Answering Defendants and as such, no response is required thereto and Plaintiffs are left to their proofs at the time of trial. The averments contained in this paragraph also state conclusions of law to which no answer is required. In the event this allegation is deemed directed at Capital Advance Solutions, the allegations are denied.

19. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at Trial.

20. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable

investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at Trial.

21. The averments of this paragraph pertain to a Defendant other than Answering Defendants and as such, no response is required thereto and Plaintiffs are left to their proofs at the time of trial. The averments contained in this paragraph also state conclusions of law to which no answer is required. In the event this allegation is deemed directed at Capital Advance Solutions, the allegations are denied.

22. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, Defendants deny each and every allegation contained in Paragraph "22" of the Verified Complaint herein and demand strict proof thereof at trial.

23. The averments of this paragraph pertain to a Defendant other than Answering Defendants and as such, no response is required thereto and Plaintiffs are left to their proofs at the time of trial. The averments contained in this paragraph also state conclusions of law to which no answer is required. In the event this allegation is deemed directed at Capital Advance Solutions, the allegations are denied.

24. The averments of this paragraph pertain to a Defendant other than Answering Defendants and as such, no response is required thereto and Plaintiffs are left to their proofs at the time of trial. The averments contained in this paragraph also state conclusions of law to which no answer is required. In the event this allegation is deemed directed at Capital Advance Solutions, the allegations are denied.

25. The averments of this paragraph pertain to a Defendant other than Answering Defendants and as such, no response is required thereto and Plaintiffs are left to their proofs at the time of trial. The averments contained in this paragraph also state conclusions of law to which no answer is required. In the event this allegation is deemed directed at Capital Advance Solutions, the allegations are denied.

26. The averments of this paragraph pertain to a Defendant other than Answering Defendants and as such, no response is required thereto and Plaintiffs are left to their proofs at the time of trial. The averments contained in this paragraph also state conclusions of law to which no answer is required. In the event this allegation is deemed directed at Capital Advance Solutions, the allegations are denied.

27. The averments of this paragraph pertain to a Defendant other than Answering Defendants and as such, no response is required thereto and Plaintiffs are left to their proofs at the time of trial. The averments contained in this paragraph also state conclusions of law to which no answer is required. In the event this allegation is deemed directed at Capital Advance Solutions, the allegations are denied.

28. The averments of this paragraph pertain to a Defendant other than Answering Defendants and as such, no response is required thereto and Plaintiffs are left to their proofs at the time of trial. The averments contained in this paragraph also state conclusions of law to which no answer is required. In the event this allegation is deemed directed at Capital Advance Solutions, the allegations are denied.

**Invasion of Privacy-Intrusion of Seclusion**

29. Deny each and every allegation contained in paragraph "29" of the Verified Complaint herein.

30. Deny each and every allegation contained in paragraph "30" of the Verified

Complaint herein.

31. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, after reasonable investigation, Answering Defendants lack sufficient knowledge or information to form a belief as to the truth of the averments contained in this paragraph and, therefore, deny same and demand strict proof thereof at Trial.

#### **CAUSES OF ACTION**

##### **COUNT I**

###### **Violations of the Telephone Consumer Protection Act (TCPA)**

32. Answering paragraph "32" of the Verified Complaint herein, repeat and reiterate each and every admission and denial heretofore made to paragraphs "1 through 31" set forth herein with the same force and effect as if more fully set forth herein.

33. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, Defendants deny the averments contained in paragraph 33.

#### **CAUSES OF ACTION**

##### **COUNT II**

###### **Violations of the Telephone Consumer Protection Act (TCPA)**

34. Answering paragraph "34" of the Verified Complaint herein, repeat and reiterate each and every admission and denial heretofore made to paragraphs "1 through 33" set forth herein with the same force and effect as if more fully set forth herein.

35. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, Defendants deny the averments contained in paragraph 35.

### **CAUSES OF ACTION**

#### **COUNT III**

##### **Invasion of Privacy-Intrusion of Seclusion**

36. Answering paragraph "36" of the Verified Complaint herein, repeat and reiterate each and every admission and denial heretofore made to paragraphs "1 through 35" set forth herein with the same force and effect as if more fully set forth herein.

37. Denied. The averments contained in this paragraph state conclusions of law to which no answer is required. By way of further answer, however, Defendants deny the averments contained in paragraph 37.

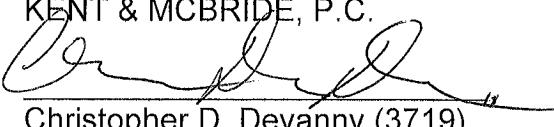
### **PRAYER FOR DAMAGES AND RELIEFS**

**WHEREFORE**, Answering Defendants demand judgment in their favor and against Plaintiffs together with costs, attorney's fees, and other relief as may be just and reasonable.

### **AFFIRMATIVE DEFENSES**

1. Defendants, Capital Advance Solutions, LLC, Geoffrey Horn, Charles Betta and Daniel Logan assert lack of personal jurisdiction.
2. Plaintiff fails to state a claim upon which relief can be granted.
3. Plaintiff's claims are barred by the equitable doctrines of waiver, estoppel, laches and unclean hands.
4. Plaintiff has failed to mitigate damages.

5. Any of plaintiff's damages were a result of the actions and/or inactions of third parties over whom Capital Advance Solutions, LLC, Geoffrey Horn, Charles Betta and Daniel Logan have no authority or control.
6. Plaintiff has failed to allege he has suffered any damages.
7. Plaintiff's complaint is not supported by the facts or under law, is frivolous and vexatious, and is brought for reasons other than the conduct of Defendants.
8. Defendants, Capital Advance Solutions, LLC, Geoffrey Horn, Charles Betta and Daniel Logan continue their investigation into this matter and reserve the right to assert additional affirmative defenses as discovery is ongoing. Defendants, Capital Advance Solutions, LLC, Geoffrey Horn, Charles Betta and Daniel Logan will amend their Answer accordingly.

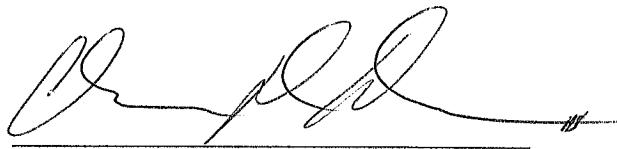
By:   
KENT & MCBRIDE, P.C.  
Christopher D. Devanny (3719)  
One Arin Park  
1716 Highway 35, Suite 305  
Middletown, New Jersey 07748  
Phone: 732-326-1711  
Email: [cdevanny@kentmcbride.com](mailto:cdevanny@kentmcbride.com)  
Counsel for Defendants, Capital Advance Solutions, Dan Logan, Charlie Betta and Geoffrey Horn

**CERTIFICATE OF SERVICE**

I hereby certify that I filed a copy of this Answer electronically with the Court on January 8, 2018 and I served a true and correct copy of the same upon the following individuals as follows:

**All parties/counsel of record**

**Via: E- File**



Christopher D. Devanny, Esq. (3719)